

STATE OF MICHIGAN
COURT OF APPEALS

DESIGN & BUILD, INC., OF LANSING,

Plaintiff-Appellee,

v

BARRY F. DEVINE and KAREN J. DEVINE,

Defendant-Appellants,

UNPUBLISHED

April 30, 2002

No. 224383

Ingham Circuit Court

LC No. 98-088790-CK

BARRY F. DEVINE and KAREN J. DEVINE,

Plaintiff-Appellants,

v

DESIGN & BUILD, INC. OF LANSING,

Defendant-Appellee,

and

PHILLIP D. CROCKETT and SANDRA J.
CROCKETT,

Defendants.

Nos. 224384; 224447

Ingham Circuit Court

LC No. 99-090125-CK

Before: Fitzgerald, P.J., and Bandstra and Kelly, JJ.

Kelly, J. (*dissenting*)

I respectfully dissent from the majority only as it relates to the trial court's jurisdiction over defendant Karen DeVine.

I do not believe that Karen DeVine was properly served vis-à-vis attorney Woods' acknowledgement of service after *Barry DeVine* authorized attorney Woods to accept service for both himself and his wife. Certainly, there is nothing in the record to indicate that Karen DeVine, as a legal entity separate and apart from her husband, ever authorized attorney Woods to accept service on her behalf. Even acknowledging that Barry DeVine showed his wife the complaint and recognizing that she acquired actual knowledge of the proceedings instituted against her by D & B, that alone still does not provide the requisite personal service sufficient for

the court to acquire proper jurisdiction. See *Reinecke v Sheehy*, 47 Mich App 250, 254-255; 209 NW2d 460 (1973) (finding that no service of process on the wife was affected absent an appearance entered by a defense attorney specifically on the wife's behalf, even after the wife observed someone personally serve her husband with the complaint, her husband showed her the complaint and she read it the very same day.)

Because the record does not indicate that Karen DeVine, acting separately and independently from her husband, ever communicated to attorney Woods her authorization to accept service of the complaint on her own behalf, I would conclude that no service was made on Karen DeVine personally. As a result, the trial court never acquired jurisdiction. Consequently, I would find that the default judgment entered as against Karen DeVine is void. *Reinecke*, supra at 255.

/s/ Kirsten Frank Kelly